

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ANN MARIE ARBOUR,

*Plaintiff,*

v.

THE MICROOPTICAL CORPORATION,

*Defendant.*

Civil Action No. 05-11730-PBS

**AFFIDAVIT OF ERIN S. MARTINO IN SUPPORT OF  
DEFENDANT'S MOTION TO DISMISS COUNT IV  
OF PLAINTIFF'S COMPLAINT**

I, Erin S. Martino, being duly sworn, depose and state the following:

I am an attorney at the law firm of Goodwin Procter LLP, Exchange Place, Boston, Massachusetts, 02109, and this firm represents The MicroOptical Corporation ("MicroOptical") in the above-captioned proceeding. I submit this affidavit in support of Defendant's Motion to Dismiss Count IV of Plaintiff's Complaint.

1. On August 12, 2005, I served a subpoena on the Massachusetts Commission Against Discrimination (the "MCAD") requesting copies of any and all complaints filed with the MCAD by the Plaintiff, Ann Marie Arbour, against MicroOptical. Attached hereto at Tab A is a true and accurate copy of the subpoena.


2. On August 12, 2005, I served a subpoena on the Equal Employment Opportunity Commission (the "EEOC") requesting copies of any and all charges filed with the EEOC by the

Plaintiff, Ann Marie Arbour, against MicroOptical. Attached hereto at Tab B is a true and accurate copy of the subpoena.

3. In response to my August 12, 2005 subpoena, I received copies of two complaints filed with the MCAD by Ms. Arbour against MicroOptical. Attached hereto at Tab C is a true and accurate copy of the complete response I received from the MCAD.

4. In response to my August 12, 2005 subpoena, I received copies of two charges filed with the EEOC by Ms. Arbour against MicroOptical. Attached hereto at Tab D is a true and accurate copy of the complete response I received from the EEOC.

SIGNED UNDER THE PENALTIES OF PERJURY THIS 29<sup>th</sup> DAY OF AUGUST,  
2005.

  
Erin S. Martino

# Exhibit A

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
TAUNTON DIVISION

\_\_\_\_\_  
ANN MARIE ARBOUR,  
Plaintiff,

v.

\_\_\_\_\_  
THE MICROOPTICAL CORPORATION,  
Defendant.

x  
x  
x  
x  
x  
x  
x  
x

Civil Action No. BRCV2005-00783

Mass. R. Civ. P. 45

SUBPOENA DUCES TECUM


TO: Keeper of Records  
The Massachusetts Commission Against Discrimination  
One Ashburton Place, 6<sup>th</sup> Floor  
Boston, MA 02108  
**ATTN: Jeff Turner**

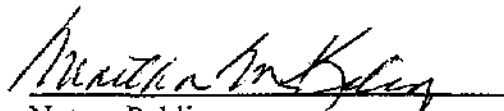
YOU ARE HEREBY COMMANDED in the name of the Commonwealth of  
Massachusetts in accordance with the provisions of Rule 45 of the Massachusetts Rules of Civil  
Procedure to produce the following documents at the offices of Goodwin Procter LLP, Exchange  
Place, Boston, MA 02109 on the **16th day of August, 2005**:

Any and all complaints filed with the Massachusetts Commission Against Discrimination  
by Ann Marie Arbour against The MicroOptical Corporation, including without limitation,  
MCAD Complaint No. 03BEM00527 and MCAD Complaint No. 041300313.

If you fail to answer this subpoena, you will answer your default under the penalties in  
the law as provided.

THE MICROOPTICAL CORPORATION  
By its attorneys,

  
\_\_\_\_\_  
Robert M. Hale (BBO #217170)  
Erin S. Martino (BBO #658100)  
GOODWIN PROCTER LLP  
Exchange Place  
Boston, MA 02109-2881  
617.570.1000

  
\_\_\_\_\_  
Notary Public  
My Commission expires: 9/24/08

Dated: August 11, 2005

## THE COMMONWEALTH OF MASSACHUSETTS

NO SERVICE was made because when process server arrived on

FEE

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

**PLEASE NOTE:** that it was necessary to make \_\_\_\_\_ attempts before making proper service. \$ \_\_\_\_\_

**OFFICER'S RETURN:** Suffolk ss. BOSTON AUGUST 12, 2005

By virtue of this subpoena, I this day summoned, the within named witness \_\_\_\_\_

MS. CAROL MOSCA, RECEPTIONIST AND AGENT to appear and answer

as within directed,



by leaving,  
by giving in hand to,  
by leaving at the last and usual place of abode of,

the said witness a true and attested copy of this subpoena together with 7.00 dollars  
for attendance and travel. \_\_\_\_\_ Said service was made at

No. ONE ASHBURTON PLACE, 6TH FLOOR, BOSTON, Massachusetts.

Said service was given to his / her Agent, \_\_\_\_\_

**FEES:**

Witness fee Paid 7.00

24.00 Service fee 24.00

Fee (other) \_\_\_\_\_

Trips were necessary  
to make service.

Total..... 31.00

Burton M. Malpogsky  
PROCESS SERVER AND A DISINTERESTED PERSON

# Exhibit B

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
TAUNTON DIVISION

ANN MARIE ARBOUR,  
Plaintiff,

v.

THE MICROOPTICAL CORPORATION,  
Defendant.

x

x

x

x

x

x

x

x

Civil Action No. BRCV2005-00783

Mass. R. Civ. P. 45

SUBPOENA DUCES TECUM

TO: Keeper of Records  
The Equal Employment Opportunity Commission  
John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02203  
ATTN: Marc Hawley

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts in accordance with the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure to produce the following documents at the offices of Goodwin Procter LLP, Exchange Place, Boston, MA 02109 on the **17th day of August, 2005**:

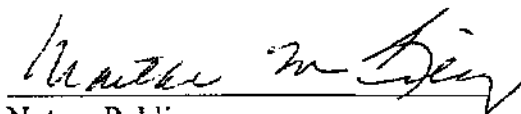
Any and all charges filed with the Equal Employment Opportunity Commission by Ann Marie Arbour against The MicroOptical Corporation, including without limitation, EEOC Charge No. 16CA301105 and EEOC Charge No. 16CA400887.

If you fail to answer this subpoena, you will answer your default under the penalties in the law as provided.

THE MICROOPTICAL CORPORATION  
By its attorneys,



Robert M. Hale (BBO #217170)  
Erin S. Martino (BBO #658100)  
GOODWIN PROCTER LLP  
Exchange Place  
Boston, MA 02109-2881  
617.570.1000

  
Notary Public  
My Commission expires: 1/24/08

Dated: August 12, 2005

## THE COMMONWEALTH OF MASSACHUSETTS

NO SERVICE was made because when process server arrived on

FEE

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**PLEASE NOTE:** that it was necessary to make \_\_\_\_\_ attempts before making proper service. \$ \_\_\_\_\_

**OFFICER'S RETURN:** Suffolk ss. BOSTON AUGUST 12, 2005

By virtue of this subpoena, I this day summoned, the within named witness \_\_\_\_\_

MS. PATRICIA LAYNE, RECEPTIONIST AND AGENT to appear and answer

as within directed,



by leaving,  
 by giving in hand to,  
 by leaving at the last and usual place of abode of,

the said witness a true and attested copy of this subpoena together with 7.00 dollars

for attendance and travel. \_\_\_\_\_ Said service was made at

No. JOHN F. KENNEDY FEDERAL BUILDING, 475 GOVERNMENT CENTER, BOSTON, Massachusetts.

Said service was given to his / her Agent, \_\_\_\_\_

**FEES:**

Witness fee Paid 7.00

40.00 Service fee 40.00

Fee (other) \_\_\_\_\_

Trips were necessary  
 \_\_\_\_\_ to make service.

Total..... 47.00

Burton M. Markozky  
 PROCESS SERVER AND A DISINTERESTED PERSON



# Exhibit C

THE COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
TAUNTON DIVISION  
CIVIL ACTION No. BRCV20005-00783

\*\*\*\*\*

ANN MARIE ARBOR,  
Plaintiff

v.

THE MICROOPTICAL CORPORATION,  
Defendant

\*\*\*\*\*

SUBPOENA DUCES TECUM

Any and all complaints filed with the Massachusetts Commission Against Discrimination by Ann Marie Arbour against The MicroOptical Corporation, including without limitation, MCAD Complaint No. 03BEM00527 and MCAD Complaint No. 041300313.

AFFIDAVIT

I, Myrna Solod, hereby depose and say:

1. I am the Clerk of the Massachusetts Commission Against Discrimination (hereafter "the Commission"), and as such am familiar with the record-keeping procedures of the Commission.
2. I have reviewed the copies attached hereto (12 pages).
3. After a review of these copies and a comparison of those copies with records kept in the files of the Commission, I hereby certify that the copies are true and accurate copies of the documents actually in the records of the Commission and that no records have been withheld.
4. Such records and documents are kept in the regular and usual course of business by the Commission.
5. The above statements are made and signed under pains and penalties of perjury this 15<sup>th</sup> day of August, 2005.

  
Myrna Solod  
Clerk of the Commission

**The Commonwealth of Massachusetts  
Commission Against Discrimination  
One Ashburton Place, Boston, MA 02108  
Phone: (617) 994-6000 Fax: (617) 994-6024**

MCAD DOCKET NUMBER: 03BEM00527  
FILING DATE: 02/24/03

EEOC/HUD CHARGE NUMBER: 16CA301105  
VIOLATION DATE: 02/24/03

Name of Aggrieved Person or Organization:

Ann Marie Arbour  
254 Pearl Street Extension  
Attleboro, MA 02703  
Primary Phone: (508)496-0095 ext. \_\_\_\_

Named is the employer, labor organization, employment agency, or state/local government agency who discriminated against me:

MicroOptical  
Human Resources  
33 Southwest Park  
Westwood, MA 02090  
Primary Phone: (781)326-8111 ext. \_\_\_\_

No. of Employees: 25+

Work Location: Westwood, MA

Cause of Discrimination based on:

Sex, Female.

The particulars are:

I, Ann Marie Arbour, the Complainant believe that I was discriminated against by MicroOptical, on the basis of Sex. This is in violation of M.G.L. 151B Section 4 Paragraph 1 and Title VII.

See Attached

I swear or affirm that I have read this complaint and that it is true to the best of my knowledge, information and belief.

\_\_\_\_\_  
(Signature of Complainant)

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS DAY of 2/28/2003.

NOTARY PUBLIC: \_\_\_\_\_

SIGNATURE NOTARY PUBLIC: \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_

Massachusetts Commission Against Discrimination and EEOC  
(State or local Agency, if any)

NAME (Indicate Mr., Ms., or Mrs.)  
Ann Marie Arbour

HOME TELEPHONE NO. (Include Area Code)  
508-494-0695

STREET ADDRESS  
254 Pearl Street Extension, Attleboro, MA 02703

CITY, STATE AND ZIP CODE

COUNTY

Bristol 24703

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE,  
STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME  
MicroOptical

NO. OF EMPLOYEES/MEMBERS  
25+

TELEPHONE NUMBER (Include Area Code)  
781-326-8111

STREET ADDRESS  
33 Southwest Park, Westwood, MA 02090

CITY, STATE AND ZIP CODE

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

☐ RACE ☐ COLOR ☒ SEX ☐ RELIGION ☐ NATIONAL ORIGIN  
☐ AGE ☐ RETALIATION ☐ OTHER (Specify)

DATE MOST RECENT OR CONTINUING  
DISCRIMINATION TOOK PLACE  
(Month, day, year)

CONTINUING

THE PARTICULARS ARE (If additional space is needed, attached extra sheet(s)):

PLEASE SEE ATTACHED AFFIDAVIT

☒ I also want this charge filed with the EEOC.  
I will advise the agencies if I change my address or telephone  
number and I will cooperate fully with them in the processing  
of my charge in accordance with their procedures.

NOTARY - (When necessary to meet State and Local Requirements)

I swear or affirm that I have read the above charge and that it  
is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true  
and correct.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(Day, month, and year)

Date

*Ann Marie Arbour*  
Charging Party (Signature)

**AFFIDAVIT**

FEB 24 2003

I, Ann Arbour, hereby certify that the following statements are true and accurate to the best of my knowledge and recollection:

- 1) I began my employment with MicroOptical Engineering on or about June 25, 2001 making \$ 17.00 per hour. I presently make \$ 17.68 per hour.
- 2) On or about the beginning of August 2001, I had a brief dating relationship with a co-worker named Tupper. Shortly thereafter, he began dating someone else.
- 3) Although Tupper was in a relationship with another woman, he continuously made advances towards me.
- 4) Sometime in October, I began to get sick and I was ultimately hospitalized.
- 5) When I returned to work from my illness, I had a conversation with Tupper. During that conversation, I told him that part of my illness had to do with him.
- 6) After the aforementioned conversation, Tupper began a series of acting his anger out towards me. He would always speak to me in a hostile manner.
- 7) Sometime in February 2002, I began a dating relationship with another man and the hostilities between myself and Tupper worsened. I was verbally attacked for dating another man.
- 8) On or about March 2002, my dating relationship ended since the man that I was dating was afraid of Tupper.
- 9) From March through August, Tupper would threaten any males that would talk to me. He would continuously scream at me and speak to me in a hostile manner.
- 10) After a meeting with Human Resources, a decision was made that Tupper and I wouldn't speak to one another.
- 11) On or about August 2002, after a meeting, I was told by Paul Z., the President of the company that I had to tolerate the behavior because Tupper was an intricate part of the company.
- 12) From the end of October to the beginning of November Tupper would continuously harass me by screaming at me, slam doors in my direction, swear at me, make sexual comments, increase the volume of his radio, etc. I made complaints; however, I was told that I had to 'take it'.
- 13) On or about November 7, 2002 I went out for surgery. On or about November 18, 2002, I returned to work after having surgery. The hostility continued.

WS

- 14) After continued harassment on or about December 13, 2002 I was told by Mark, the CEO to take a leave of absence to 'pull myself together'.
- 15) On or about January 6, 2003 I returned to work. The harassment continued. On or about January 7, 2003, I had a meeting with Noa, my supervisor, at which time I told her that I was not going to take it anymore. She said that she would talk to Paul and keep an eye on him.
- 16) On or about January 9, 2003 I told Noa again that the harassment was continuing and that I wasn't going to take it anymore. She said that she would talk to Paul.
- 17) On or about January 10, 2003 I spoke with Noa again about the harassment that was continuing and seemingly worsening each day. I was again told that she would speak with Paul.
- 18) On or about January 14, 2003, I told Noa again. I was later called into Paul's office at which time Paul told me that he thought that it was all in my head and I was making it all up. He then mentioned the leave of absence that I had recently taken. I reminded him that the leave of absence would not have been necessary if Tupper would not harass me and if he (Paul) had done something to stop it.
- 19) The harassment and hostility continues to exist. I feel as though the hostility has created a terrible working environment. I have made numerous complaints; however nothing has been done to cease the harassing behavior directed towards me.

Signed under the pains and penalties of perjury on this 12<sup>th</sup> day of February 2003.

  
Ann Arbour



**The Commonwealth of Massachusetts  
Commission Against Discrimination  
One Ashburton Place, Boston, MA 02108  
Phone: (617) 994-6000 Fax: (617) 994-6024**

MCAD DOCKET NUMBER: 04BEM00313  
FILING DATE: 02/04/04

EEOC/HUD CHARGE NUMBER: 16CA400887  
VIOLATION DATE: 10/23/03

Name of Aggrieved Person or Organization:

Ms. Ann Marie Arbour  
254 Pearl Street Extension  
Attleboro, MA 02703  
Primary Phone: (508)496-0095 ext. \_\_\_\_\_

Named is the employer, labor organization, employment agency, or state/local government agency who discriminated against me:

MicroOptical  
Attn: Human Resource Division  
33 Southwest Park  
Westwood, MA 02090  
Primary Phone: (781)326-8111 ext. \_\_\_\_\_

No. of Employees: 25+

Work Location: Westwood

Cause of Discrimination based on:

Disability, Other mental, nervous or emotional problem.

The particulars are:

I, Ann Marie Arbour, the Complainant believe that I was discriminated against by MicroOptical, on the basis of Disability. This is in violation of M.G.L. 151B Section (4) Paragraph (16) and ADA.

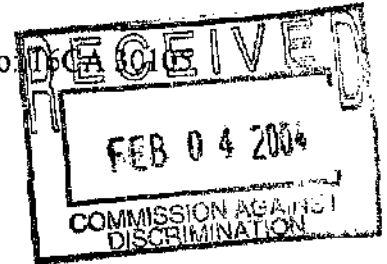
See attached

COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

ANN MARIE ARBOUR, )  
    *Claimant,* )  
 )  
    V )  
 )  
MICRO OPTICAL, )  
    *Respondent.* )

MCAD Docket No: 03BEM00527

EEOC Charge No: Disc



COMPANION COMPLAINT

Now comes the Claimant, Ann Marie Arbour, in the above-entitled matter, who hereby submits this Companion Complaint to the Massachusetts Commission Against Discrimination:

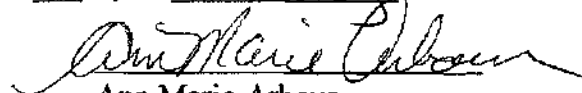
- 1) I continued to be harassed while working at MicroOptical and sought treatment for same through John P. Raftery, ED.D.
- 2) My doctor ordered me not to return to work until the "negative working environment" was omitted from my place of employment.
- 3) Per my doctor's orders, I requested a leave of absence and was granted same. I was placed on long-term disability.
- 4) While out on disability, I received notice from MicroOptical, stating they did not feel that a hostile working environment existed and that they would do nothing to change the conditions. Further, I was informed that prior to returning to work, I would have to meet certain conditions including: (1) I would have to submit a letter from my doctor indicating that I was released and able to return to work; and (2) I was informed that I would have to disclose information pertaining to my religious beliefs.
- 5) My long term disability ended and since the "negative working conditions" were not omitted, my doctor would not submit a letter stating that I was released to return to work.
- 6) Since I could not return to work without the letter from my doctor, I did not return to work.
- 7) I was terminated on October 23, 2003.

MS



- 8) Although I was terminated in October of 2003, on January 20, 2004, my doctor received a request for information from MicroOptical.

Signed under the pains and penalties of perjury on this 1 day of February 2004.

  
Ann Marie Arbour

103



**MicroOptical**

January 20, 2004

John P. Raftery, Ed. D.  
116 Whitcomb Avenue  
Boston, Massachusetts 02130

Dear Dr. Raftery,

I have become aware of several letters (written by you but not received by MicroOptical) during a hearing on Ann's unemployment. These letters were dated over a time period from March to October of 2003. Could you please send me copies of these letters.

Thank you,

Paul M. Zavracky  
President and COO  
The MicroOptical Corporation  
33 Southwest Park  
Westwood, MA 02090

The Law Office of*David R. Ardito*

Telephone (508) 431-2222  
Facsimile (508) 431-2211

Bisio & Dupont Building  
228 County Street  
Attleboro, Massachusetts  
02703-3534

**FACSIMILE TRANSMITTAL COVER SHEET**

*Date:* February 10, 2004

*To:* Carol Mosca / Massachusetts Commission Against Discrimination

*From:* Law Office of David R. Ardito

*Fax Number:* 1-617-994-6024

*Number of pages (including this cover):* (4)

*In Re:* Ann Marie Arbour v. Micro Optical  
Complaint filed on February 3, 2004

Dear Ms. Mosca:

Per your request, enclosed please find medical documentation relative to the above-referenced matter for your files. Please do not hesitate to contact this office if you are in need of anything further at this time.

Very truly yours,

David R. Ardito

DRA/ld  
Enclosures

This transmittal is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this transmission is not the intended recipient, or the employee or agent responsible for delivering the transmittal to the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone.

MS

**JOHN P. RAFTERY, Ed.D.**LICENSED PSYCHOLOGIST  
CERTIFIED HEALTH CARE PROVIDER110 WHITCOMB AVENUE  
BOSTON, MASSACHUSETTS 02180

TELEPHONE (617) 524-4070

March 28, 2003

Mr. Paul M. Zauracky  
President, MicroOptical

Fax: 781-326-4110

Dear Mr. Zauracky:

Enclosed you shall find the information you requested from the writer in a letter dated March 21, 2003 to Ms. Ann Arbour.


- 1) The client has been diagnosed as clinically depressed and experiencing an anxiety disorder. The emotional wellness of this client has been traumatized by the negative working conditions in her place of employment.

Sleep disturbance, appetite and weight loss, poor concentration, excess worry and tension, fatigue, fearfulness, and sad affect are preventing this client from effectively fulfilling the responsibilities required by her work position.

- 2) The current disability will remain in effect as long as the negative working conditions remain in place. The client will be able to return to work once the negative conditions are removed on a permanent basis and a written and notarized agreement is created that will prevent the reoccurrence of any and all of the negative conditions.
- 3) It has been reported to the writer by the client that a Mr. Scott Tupper, an employee of your company, has been harassing her for the past 6 months in spite of numerous requests to management by the client for direct interventions to stop the harassment. The negative conditions referred to by the writer are the harassing events taking place.

The client stated to the writer that Mr. Tupper made numerous critical comments to her, displayed threatening facial expressions to her, demonstrated hostile body language and criticized her religious views. On one occasion Mr. Tupper made the following statement to the client, "You fucking women are all alike. You all play head games." Other comments similar to the latter one above have been common.

These above-described events have been practiced by Mr. Tupper in the absence of any other observers or witnesses and directed clearly at this client.



Ms. Ann Arbour has reported to me that she has been fearful of using the bathroom in the building or moving about the building because of the harassment she has experienced from Mr. Tupper.

I am of the professional opinion that the information presented to me by Ms. Ann Arbour concerning the behavior of Mr. Scott Tupper is valid and reliable and the direct cause of the depression, anxiety and traumatized feelings she is experiencing.

The rectification and removal of the negative conditions at this client's place of employment will allow her to return to work in a respectful environment in which she can perform her tasks in a responsible and effective manner.

Sincerely,

  
John P. Raftery, Ed.D.

WS

JOHN P. RAFTERY, ED.D.

LICENSED PSYCHOLOGIST  
CERTIFIED HEALTH CARE PROVIDER110 WILKINS AVENUE  
BOSTON, MASSACHUSETTS 02130

TELEPHONE (617) 524-8070

3/17/03

To show it Any Concern.

Mr. James Brown should  
not return to his present  
job because of the psychological,  
emotional and physical stress created  
by the negative conditions present  
at his job. A sense of abuse  
is admissible mental such time as  
the stress level of this client is  
reduced and the negative working  
conditions are removed.

John P. Raftery, Ed.D.

MS.

# Exhibit D

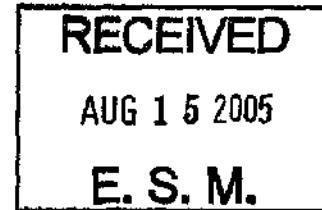


**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Boston Area Office**

John F. Kennedy Federal Building  
Government Center  
Room 475  
Boston, MA 02203-0506  
(617) 565-3200  
TTY (617) 565-3204  
FAX (617) 565-3196

August 15, 2005

Erin Martino, Esq.  
Goodwin Proctor LLP  
Exchange Place  
Boston, MA 02109



Re: Ann Marie Arbour v. MicroOptical Corporation, BRCV2005-00783

Dear Attorney Martino:

In response to your letter and subpoena of August 12, we can confirm that the only two charges filed by Ann Marie Arbour against MicroOptical with the EEOC are EEOC Charge Nos. 16C-2003-01105 (old numbering system is 16CA301105) and 16C-2004-00887 (old numbering system is 16CA400887). We have no record of any other charges by Ms. Arbour against MicroOptical.

I enclose copies of the two charges.

Sincerely,

A handwritten signature in black ink, appearing to read "Markus L. Penzel".

Markus L. Penzel  
Senior Trial Attorney

Encls.



**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**To: EEOC  
JFK Federal Building  
Fourth Floor, Room 475  
Boston, MA 02203**

**Date:** 2/28/2003  
**EEOC Charge Number:** 16CA301105  
**706 Agency Charge Number:** 03BEM00527

**SUBJECT: CHARGE TRANSMITTAL**

## Ann Marie Arbour v. MicroOptical

Transmitted herewith is a charge of employment discrimination initially received by the:

EOC X Mass. Commission Against Discrimination on 02/24/03  
(Name of 706 Agency) (Date of Receipt)

Pursuant to the work-sharing agreement, this charge is to be initially processed by the EEOC.

X Pursuant to the work-sharing agreement, this charge is to be initially processed by the 706 Agency.

EOC requests a waiver \_\_\_\_\_ 706 agency waiver  
No waiver requested X 706 agency will process the charge initially

Please complete the bottom portion of this form to acknowledge receipt of the charge and where appropriate, to indicate whether the 706 agency will initially process the charge.

Typed Name of EEOC or Agency Director  
Dorca L. Gomez, Chairwoman

Signature

Ann Marie Arbour  
(Charging Party)

MicroOptical  
(Respondent)

**To whom it may concern:**

\_\_\_\_\_ This will acknowledge receipt of the referenced charge and indicate the agency's intention to initially process the charge.

\_\_\_\_\_ This will acknowledge receipt of the referenced charge and indicate the agency's intention not to initially process the charge.

\_\_\_\_\_ This will acknowledge receipt of the referenced charge and indicate the Agency's intention to dismiss/close/not docket the charge for the following reason:

Typed Name of Agency Director  
Robert L. Sanders

**Signature**

The Commonwealth of Massachusetts  
Commission Against Discrimination  
One Ashburton Place, Boston, MA 02108

Date: 2/28/2003  
EEOC Charge Number: 16CA301105  
706 Agency Charge Number: 03BEM00527

**The Commonwealth of Massachusetts  
Commission Against Discrimination  
One Ashburton Place, Boston, MA 02108  
Phone: (617) 994-6000 Fax: (617) 994-6024**

MCAD DOCKET NUMBER: 03BEM00527  
FILING DATE: 02/24/03

EEOC/HUD CHARGE NUMBER: 16CA301105  
VIOLATION DATE: 02/24/03

Name of Aggrieved Person or Organization:

Ann Marie Arbour  
254 Pearl Street Extension  
Attleboro, MA 02703  
Primary Phone: (508)496-0095 ext. \_\_\_\_\_

Named is the employer, labor organization, employment agency, or state/local government agency who discriminated against me:

MicroOptical  
Human Resources  
33 Southwest Park  
Westwood, MA 02090  
Primary Phone: (781)326-8111 ext. \_\_\_\_\_

No. of Employees: 25+

Work Location: Westwood, MA

Cause of Discrimination based on:

Sex, Female.

The particulars are:

I, Ann Marie Arbour, the Complainant believe that I was discriminated against by MicroOptical, on the basis of Sex. This is in violation of M.G.L. 151B Section 4 Paragraph 1 and Title VII.

See Attached

I swear or affirm that I have read this complaint and that it is true to the best of my knowledge, information and belief.

\_\_\_\_\_  
(Signature of Complainant)

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS DAY of 2/28/2003.

NOTARY PUBLIC: \_\_\_\_\_

SIGNATURE NOTARY PUBLIC: \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_



(508) 431-2222  
FAX (508) 431-2211

BISIO & DUPONT BUILDING  
228 COUNTY STREET  
ATTLEBORO, MASSACHUSETTS  
02703-3534

THE LAW OFFICE OF

*David R. Ardito*

February 19, 2003

Commonwealth of Massachusetts  
Commission Against Discrimination  
One Ashburton Place  
Boston, MA 02108

*In Re: Ann Arbour v. MicroOptics  
Hostile Environment*

To Whom it May Concern:

Please be advised that this office has been retained by Ms. Ann Arbour to represent her in what she believes to be a hostile environment matter.

My client is currently employed by MicroOptics and is being harassed by a coworker. Since my client has made numerous complaints to both her supervisor and the president of the company to no avail, she has asked us to represent her.

I am enclosing Ms. Arbour's Affidavit for your review and filing; however, please be advised that my client's intentions are simply to cease the harassment. It is her hope that she will be able to continue her employment with MicroOptics without any further harassment by her coworker.

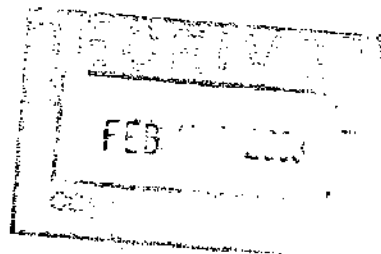
I thank you for your kind attention to this matter. Please do not hesitate to contact this office with any questions or concerns that you may have relative to same.

Very truly yours,

*David R. Ardito*  
David R. Ardito, Esq.

DRA/ld  
Enclosures

cc: MicroOptics



Massachusetts Commission Against Discrimination

and EEOC

(State or local Agency, if any)

NAME (Indicate Mr., Ms., or Mrs.)

Ann Marie Arbour

HOME TELEPHONE NO. (Include Area Code)

508-496-0095

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

254 Pearl Street Extension, Attleboro, MA 02703

Bristol 02503

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

MicroOptical

NO. OF EMPLOYEES/MEMBERS

25+

TELEPHONE NUMBER (Include Area Code)

781-326-8111

STREET ADDRESS

CITY, STATE AND ZIP CODE

33 Southwest Park, Westwood, MA 02090

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

☐ RACE ☐ COLOR ☒ SEX ☐ RELIGION ☐ NATIONAL ORIGIN  
☐ AGE ☐ RETALIATION ☐ OTHER (Specify)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (Month, day, year)

CONTINUING

THE PARTICULARS ARE (If additional space is needed, attached extra sheet(s)):

PLEASE SEE ATTACHED AFFIDAVIT

X I also want this charge filed with the EEOC.

I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the foregoing is true and correct.

Date

X Ann Marie Arbour  
- Charging Party (Signature)

NOTARY - (When necessary to meet State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)

**AFFIDAVIT**

I, Ann Arbour, hereby certify that the following statements are true and accurate to the best of my knowledge and recollection:

- 1) I began my employment with MicroOptical Engineering on or about June 25, 2001 making \$ 17.00 per hour. I presently make \$ 17.68 per hour.
- 2) On or about the beginning of August 2001, I had a brief dating relationship with a co-worker named Tupper. Shortly thereafter, he began dating someone else.
- 3) Although Tupper was in a relationship with another woman, he continuously made advances towards me.
- 4) Sometime in October, I began to get sick and I was ultimately hospitalized.
- 5) When I returned to work from my illness, I had a conversation with Tupper. During that conversation, I told him that part of my illness had to do with him.
- 6) After the aforementioned conversation, Tupper began a series of acting his anger out towards me. He would always speak to me in a hostile manner.
- 7) Sometime in February 2002, I began a dating relationship with another man and the hostilities between myself and Tupper worsened. I was verbally attacked for dating another man.
- 8) On or about March 2002, my dating relationship ended since the man that I was dating was afraid of Tupper.
- 9) From March through August, Tupper would threaten any males that would talk to me. He would continuously scream at me and speak to me in a hostile manner.
- 10) After a meeting with Human Resources, a decision was made that Tupper and I wouldn't speak to one another.
- 11) On or about August 2002, after a meeting, I was told by Paul Z., the President of the company that I had to tolerate the behavior because Tupper was an intricate part of the company.
- 12) From the end of October to the beginning of November Tupper would continuously harass me by screaming at me, slam doors in my direction, swear at me, make sexual comments, increase the volume of his radio, etc. I made complaints; however, I was told that I had to 'take it'.
- 13) On or about November 7, 2002 I went out for surgery. On or about November 18, 2002, I returned to work after having surgery. The hostility continued.

- 14) After continued harassment on or about December 13, 2002 I was told by Mark, the CEO to take a leave of absence to 'pull myself together'.
- 15) On or about January 6, 2003 I returned to work. The harassment continued. On or about January 7, 2003, I had a meeting with Noa, my supervisor, at which time I told her that I was not going to take it anymore. She said that she would talk to Paul and keep an eye on him.
- 16) On or about January 9, 2003 I told Noa again that the harassment was continuing and that I wasn't going to take it anymore. She said that she would talk to Paul.
- 17) On or about January 10, 2003 I spoke with Noa again about the harassment that was continuing and seemingly worsening each day. I was again told that she would speak with Paul.
- 18) On or about January 14, 2003, I told Noa again. I was later called into Paul's office at which time Paul told me that he thought that it was all in my head and I was making it all up. He then mentioned the leave of absence that I had recently taken. I reminded him that the leave of absence would not have been necessary if Tupper would not harass me and if he (Paul) had done something to stop it.
- 19) The harassment and hostility continues to exist. I feel as though the hostility has created a terrible working environment. I have made numerous complaints; however nothing has been done to cease the harassing behavior directed towards me.

Signed under the pains and penalties of perjury on this 12<sup>th</sup> day of February 2003.

  
Ann Arbour

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

To: EEOC  
JFK Federal Building  
Fourth Floor, Room 475  
Boston, MA 02203

Date: 2/10/2004  
EEOC Charge Number: 16CA400887  
706 Agency Charge Number: 04BEM00313

SUBJECT: CHARGE TRANSMITTAL

Ann Marie Arbour v. MicroOptical

Transmitted herewith is a charge of employment discrimination initially received by the:

☐ EEOC ☒ Mass. Commission Against Discrimination on 02/04/04  
(Name of 706 Agency) (Date of Receipt)

☐ Pursuant to the work-sharing agreement, this charge is to be initially processed by the EEOC.  
☒ Pursuant to the work-sharing agreement, this charge is to be initially processed by the 706 Agency.  
☐ EEOC requests a waiver ☐ 706 agency waiver  
☐ No waiver requested ☒ 706 agency will process the charge initially

Please complete the bottom portion of this form to acknowledge receipt of the charge and where appropriate, to indicate whether the 706 agency will initially process the charge.

Typed Name of EEOC or Agency Director  
Dorca I. Gomez, Chairwoman

Signature

Ann Marie Arbour  
(Charging Party)

MicroOptical  
(Respondent)

To whom it may concern:

☐ This will acknowledge receipt of the referenced charge and indicate the agency's intention to initially process the charge.

☐ This will acknowledge receipt of the referenced charge and indicate the agency's intention not to initially process the charge.

☐ This will acknowledge receipt of the referenced charge and indicate the Agency's intention to dismiss/close/not docket the charge for the following reason:

Typed Name of Agency Director  
Robert L. Sanders

Signature

The Commonwealth of Massachusetts  
Commission Against Discrimination  
One Ashburton Place, Boston, MA 02108

Date: 2/10/2004  
EEOC Charge Number: 16CA400887  
706 Agency Charge Number: 04BEM00313

**The Commonwealth of Massachusetts  
Commission Against Discrimination  
One Ashburton Place, Boston, MA 02108  
Phone: (617) 994-6000 Fax: (617) 994-6024**

MCAD DOCKET NUMBER: 04BEM00313  
FILING DATE: 02/04/04

EEOC/HUD CHARGE NUMBER: 16CA400887  
VIOLATION DATE: 10/23/03

Name of Aggrieved Person or Organization:

Ms. Ann Marie Arbour  
254 Pearl Street Extension  
Attleboro, MA 02703  
Primary Phone: (508)496-0095 ext. \_\_\_\_\_

Named is the employer, labor organization, employment agency, or state/local government agency who discriminated against me:

MicroOptical  
Attn: Human Resource Division  
33 Southwest Park  
Westwood, MA 02090  
Primary Phone: (781)326-8111 ext. \_\_\_\_\_

No. of Employees: 25+

Work Location: Westwood

Cause of Discrimination based on:

Disability, Other mental, nervous or emotional problem.

The particulars are:

I, Ann Marie Arbour, the Complainant believe that I was discriminated against by MicroOptical, on the basis of Disability. This is in violation of M.G.L. 151B Section (4) Paragraph (16) and ADA.

See attached



The Law Office of

*David R. Ardito*

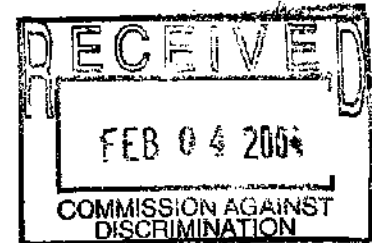
Telephone (508) 431-2222  
Facsimile (508) 431-2211

Bisio & Dupont Building  
228 County Street  
Attleboro, Massachusetts  
02703-3534

February 3, 2004

Commission Against Discrimination  
Commonwealth of Massachusetts  
Attn: Caroline Sarante  
One Ashburton Place  
Boston, MA 02108

In Re: Ann Marie Arbour v. MicroOptical  
MCAD Docket No: 03BEM 00527  
EEOC Charge No: 16CA 30105



Dear Ms. Sarante:

Per our recent discussion, enclosed herewith please find the complainant, Ann Marie Arbour's Companion Complaint relative to the above-entitled matter, along with a letter from my client's doctor dated January 20, 2004 for your review and files.

Thank you for your kind attention to this matter.

Very truly yours,

David R. Ardito

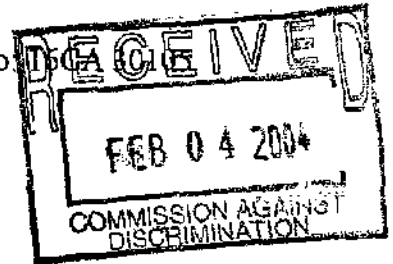
DRA/ld  
enclosures

**COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION**

ANN MARIE ARBOUR, )  
                   *Claimant,* )  
                   ) )  
                   V )  
                   ) )  
MICRO OPTICAL, )  
                   *Respondent.* )

MCAD Docket No: 03BEM00527

EEOC Charge No: 150



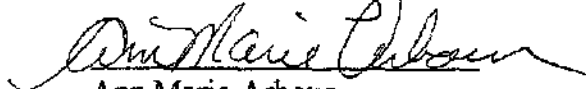
**COMPANION COMPLAINT**

Now comes the Claimant, Ann Marie Arbour, in the above-entitled matter, who hereby submits this Companion Complaint to the Massachusetts Commission Against Discrimination:

- 1) I continued to be harassed while working at MicroOptical and sought treatment for same through John P. Raftery, ED.D.
- 2) My doctor ordered me not to return to work until the "negative working environment" was omitted from my place of employment.
- 3) Per my doctor's orders, I requested a leave of absence and was granted same. I was placed on long-term disability.
- 4) While out on disability, I received notice from MicroOptical, stating they did not feel that a hostile working environment existed and that they would do nothing to change the conditions. Further, I was informed that prior to returning to work, I would have to meet certain conditions including: (1) I would have to submit a letter from my doctor indicating that I was released and able to return to work; and (2) I was informed that I would have to disclose information pertaining to my religious beliefs.
- 5) My long term disability ended and since the "negative working conditions" were not omitted, my doctor would not submit a letter stating that I was released to return to work.
- 6) Since I could not return to work without the letter from my doctor, I did not return to work.
- 7) I was terminated on October 23, 2003.

- 8) Although I was terminated in October of 2003, on January 20, 2004, my doctor received a request for information from MicroOptical.

Signed under the pains and penalties of perjury on this 1 day of February 2004.

  
Ann Marie Arbour